

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MARTYN STEWART, d/b/a/
NATURESOUND.ORG,
Plaintiff,
v.
APPLE, INC., *et al.*,
Defendants.

No. C10-1012RSL

ORDER GRANTING IN PART APPLE INC.'S MOTION TO DISMISS

This matter comes before the Court on “Apple Inc.’s Motion to Dismiss and Notice of Joinder in Defendants Mitch Waite Group LLC’s and Mitchell Waite’s Motion to Dismiss for Failure to State a Claim.” Dkt. # 15. For the reasons stated in this Court’s “Order Denying Defendants’ Motion to Dismiss,” of even date, Apple’s motion is GRANTED in part. Plaintiff’s requests for statutory damages and attorney’s fees are DISMISSED. Plaintiff’s infringement claim may proceed to discovery.¹

¹ The only new legal authority identified by Apple, Bean v. Houghton Mifflin Harcourt Publ'g Co., 2010 WL 3168624 (D. Ariz. Aug. 10, 2010), does not compel a different result. In Bean, the original author of a photographic work filed an infringement claim based on a registration submitted by a third party. The district court expressly declined to determine “whether a compilation registration can ever have the effect of registering the individual works contained in the compilation.” 2010 WL 3168624 at * 4 n.3.

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APPLE INC.'S MOTION TO DISMISS**

1 Dated this 8th day of November, 2010.
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Robert S. Lasnik

Robert S. Lasnik
United States District Judge